

New Zealand.



ANALYSIS.

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1904, No. 18.—*Local.*

AN ACT to grant Further Borrowing-powers to the Timaru Harbour Board. Title.
[5th November, 1904.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Timaru Harbour Board Loan Act, 1904." Short Title.

2. In this Act the following or any equivalent expressions mean as follows:— Interpretation.

"The Board" means the Timaru Harbour Board:

"The Chairman" means the Chairman of the Board for the time being, or any member of the Board for the time being performing the duties of Chairman:

"The harbour district" or "the district" means the Timaru Harbour District constituted and defined under "The Timaru Harbour Board Loan Act, 1881," and "The Timaru Harbour Board Act, 1882."

Power to borrow.

3. The Board shall have power to borrow, in addition to sums authorised by any previous Acts, subject to the provisions of "The Harbours Act, 1878," any sum not exceeding fifty thousand pounds, at a rate of interest not exceeding five pounds per centum per annum, to be applied in and about the construction, completion, and carrying-out of works for the improvement of the Port of Timaru, including such works as are defined by the words "harbour-works" in the interpretation clause of "The Harbours Act, 1878," as shall be by the Board considered necessary for the requirements of the harbour of Timaru; and also to obtain, erect, and construct all such plant, cranes, sheds, and works of every description, and to enter into all contracts for or ancillary to the purposes of the improvement of the said harbour, as shall be judged necessary and proper by the Board for that purpose, or for the safety, convenience, or reception of vessels resorting to the said harbour, and for the more convenient loading and unloading of such vessels, or for the safety and protection of any works constructed or proposed to be constructed by the Board. The said sum may be raised by one or more loans, or, if a loan of the whole amount is authorised, it may be raised in one sum or different sums at different times, as the Board thinks fit; but no money shall be borrowed under the authority of this Act which shall produce to the lender a higher rate of interest than five pounds per centum per annum. All moneys borrowed under this section shall be devoted exclusively to the purposes authorised by this Act.

All debenture-holders to rank alike.

4. The holder of any debenture shall not have any preference by reason of any priority of date or otherwise, but all debenture-holders shall rank alike and be entitled to equal rights and remedies.

Board may repay out of loan existing liabilities and interest during construction of work.

5. The Board may repay out of any such loan any liabilities or overdrafts existing at the time this Act comes into force, and during the construction of the work for which the loan is raised may, for a period not exceeding two years from the coming into operation of this Act, pay out of such loan the interest thereon.

Chairman to call meetings of ratepayers to consider proposal to borrow.

6. Before any such loan is raised the consent of the ratepayers in the harbour district shall be first obtained in the mode hereinafter prescribed:—

The Chairman shall convene such meetings as he may deem necessary of the ratepayers, to be held within the boroughs and town districts situate within the harbour district, and of the ratepayers of any county and part of a county which is within the harbour district, upon a day not more than ten days after the last publication of a notice to be published as hereinafter mentioned to consider the said proposal. Such meetings may be held on different days within the before-mentioned time, and shall be convened by notice published in a newspaper circulating in the harbour district, and every such notice shall specify the times and places in the boroughs and town districts, and counties or parts of counties, at which meetings are to be held; also the following particulars:—

- (a.) The particular works proposed to be undertaken.
- (b.) The sum proposed to be borrowed for such purposes.
- (c.) Any special rates or tolls, or the rents and profits of any property, which it is proposed to pledge as security for such loan, not being moneys received by way of grant

from the General Government of moneys theretofore pledged as security for any loan or appropriated to any special purpose, except subject to all existing charges.

7. The Chairman shall appoint one of the members of the Council of each borough, or of the Board of Commissioners of a town district, or some officer of the said Council or Board of Commissioners, or other proper person, to preside at the meeting to be held within each borough or town district; and shall appoint a member of each County Council, or some officer of the said Council, or other proper person, to preside at each of such meetings in the county if such person shall be willing to act; and if any such person shall be unwilling to act, or be unable to act from any cause, then such person as the Chairman thinks fit.

Chairman to
appoint Presiding
Officers.

The person so appointed shall be called "the Presiding Officer," and he shall preside at the meeting to be held in the boroughs or town district, or county or part of a county, for which he has been appointed, and he, or some other person appointed by the Chairman, shall preside at the taking of any poll as hereinafter provided; but if any such person shall at any time refuse, or be unwilling, or become incapacitated from any cause from presiding at the taking of any such poll, then the Chairman shall appoint such other person as he thinks fit to preside at such meeting or at the taking of any such poll.

After due consideration and discussion of the proposal, the Presiding Officer shall inform those present that a poll will be taken.

8. The poll shall be taken as follows:—

How poll to be
taken.

(a.) The Chairman shall publish a notice setting forth the day, not less than one nor more than three weeks from the day of the said meeting, or the last of them if held on different days, on which the poll of the ratepayers will be taken; and may, if he thinks fit, appoint different days within the above-mentioned period for taking the poll in the boroughs and town district, and different counties and parts of counties, within the harbour district, and as many polling-places as he may deem necessary for such boroughs and town district, and counties or parts of counties. Any such polling place or places may be either within or without the borough, town district, county, or part of a county the ratepayers of which are to vote at the poll.

(b.) The Chairman shall give notice to the Presiding Officer, or other person appointed by him to do so, requiring him to take the poll upon the day appointed.

(c.) The Presiding Officer, or other person appointed by the Chairman as above mentioned, shall on the day so appointed proceed to take the poll in the manner provided by "The Local Elections Act, 1904," for taking a poll at any election, and shall provide voting-papers and all things necessary for taking the poll.

Rolls of the said ratepayers shall be provided or made up for the purpose, subject to the provisions of the various statutes affecting the said boroughs, town districts, counties and parts of counties respectively, so far as the same

are applicable. Such rolls shall be provided or made up in each case by the proper officer of the local body who prepares the roll for the election of members of the local governing body, and in each case a reasonable fee shall be paid therefor.

- (d.) The voting-papers shall be printed in the form in the Schedule to this Act, with the words "I vote for the above proposal" and "I vote against the above proposal" legibly printed at the foot of each voting-paper.
- (e.) The voter shall erase one or other of the said lines, and his vote shall be deemed to be given according to the one of the said lines which he leaves un erased.
- (f.) All the provisions of "The Local Elections Act, 1904," as regards taking a poll shall, so far as they are applicable, and except by this section or otherwise provided, apply to the taking of a poll on the proposal to raise the said loan.
- (g.) The poll shall be taken at the polling-places appointed in each county, town district, and part of a county as aforesaid, and each voter shall have and may exercise as many votes as he had and could have exercised at any election of the local governing body of the county or town district, as the case may be, before the passing of "The Local Government Voting Reform Act, 1899"; and the poll shall also be taken at the polling-places appointed in each borough, and each voter therein shall have and may exercise as many votes as he could have exercised at any election of the local governing body of the borough before the passing of "The Municipal Corporations Act, 1900," if "The Municipal Franchise Reform Act, 1898," had not been passed.

When resolution deemed to be carried.

9. If the number of votes given for the proposal within the district exceeds the number given against it by one-fourth or more than one-fourth of the latter, the resolution in favour of the proposal shall be deemed to be carried, and the Board may proceed with the proposal accordingly; but if there is not such a majority in favour of the proposal the resolution shall be deemed to be rejected, and the Board shall not so proceed unless and until the proposal in its original or some modified form is again submitted to the ratepayers in manner hereinbefore provided and is carried by such majority as aforesaid.

Chairman to declare numbers polled.

10. As soon as conveniently may be after the result of the poll has been ascertained, the Chairman shall give public notice of the number of votes recorded for and against the proposal as above provided, and shall declare the resolution to be carried or rejected as the case may be.

Chairman shall send result of polling to Colonial Secretary.

11. When any such resolution is carried the Chairman shall send a notice thereof to the Colonial Secretary, who shall publish the same in the General Government *Gazette*, and such notice so gazetted shall be final and conclusive evidence that the raising of the loan to which it refers has been duly authorised under the provisions of this Act, notwithstanding any omission or irregularity

in any provision, matter, or thing required to be done hereunder or under "The Local Elections Act, 1904."

12. In case the Harbour Fund of the said district shall be insufficient to pay the expenses incurred by the Board in the construction, completion, maintenance, and repair of its present and future harbour-works, and all other current expenses, and the interest on previous loans and on the loan hereby authorised to be raised, or sooner should the available income of the Board prove insufficient to meet such interest, and the Board determine that it is desirable to make and levy a rate, a rate shall be levied by the Board upon the rateable value of all rateable property in the harbour district as appearing on the valuation rolls in force for the time being of the boroughs, town districts, and counties and parts of counties comprised within the said harbour district, and the proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of the loan to be raised under this Act:

Board may rate district for interest on loan, or may allocate and recover from the local authorities a sum equivalent to the annual rate.

Provided that, in lieu of making and levying such rate as aforesaid, or at any time after such rate shall have been made, in lieu of continuing to levy the same, the Board may from time to time allocate and recover from the local authorities in the harbour district mentioned in "The Timaru Harbour Board Empowering Act, 1890," and the amendments thereof, a sum equivalent to the annual amount of such rate, to be fixed, apportioned, and raised in manner therein mentioned, and the provisions of the Act last above mentioned (as amended by "The Timaru Harbour District Rating Act, 1894," "The Timaru Harbour Board Act, 1899," and "The Timaru Harbour District and Harbour Board Act, 1903") shall, *mutatis mutandis*, apply to the rate or contributions so to be levied or allocated, and generally to the loan or loans authorised by this Act, and shall be deemed to be incorporated with and to form part of this Act.

13. The amount to be levied or allocated by the Board in each year shall not exceed such amount as is required to provide for the payment of interest on the aggregate amount for which debentures shall at any time be issued, after taking into account whatever sum of money may be available from the revenue of the Board for the previous year for payment of interest on the loan hereby authorised to be made.

Amount of rate or contribution.

14. Any such sum available from the revenue of the Board for the previous year shall be taken into account as aforesaid, and the balance required for interest on the loan shall then be levied or allocated in manner hereby provided.

Sums available from revenue to be applied in payment of interest on loan.

15. The Board may at any time raise a loan or loans without taking a poll as herein provided for the purpose of paying off or consolidating any existing loans, or any existing and future loans, or any future loans, and such repayment or consolidation may be effected in such manner and on such terms and conditions as the Board thinks fit.

Board may raise loans to pay off or consolidate existing or future loans without poll.

16. No rate or allocation of contributions made under this Act shall be capable of being set aside or of being quashed by any proceedings of any Court or otherwise, and no defect in the same, or omission or irregularity in respect thereof, shall be set up as a defence to any action which may be brought to recover the same.

No rate or allocation to be quashed.

For the purpose of making and recovering rates the Board may exercise all powers which any local body may have.

17. For the purpose of making, levying, and recovering the rate hereby authorised to be made and levied, the Board shall have and may exercise all the powers of making, levying, and recovering rates in each borough and town district, and each county and part of a county, within the district which any local body having rating-powers within such borough, town district, county, or part of a county shall or may have under the law for the time being in force regulating the making and recovery of rates therein respectively; and the provisions of the Acts for the time being in force in the boroughs, town districts, and counties or parts of counties included in the said harbour district providing for levying rates for the payment of the annual charges on loans raised by such boroughs, town districts, or counties shall, so far as applicable, be deemed to apply to the rate hereby authorised to be made and levied :

Provided, however, that the period for which the said rate shall be levied, or allocations of contributions shall be continued, shall be until the loan hereby authorised to be raised is paid off: Provided that during that period either of the two modes referred to may be adopted and varied from time to time as the Board may deem expedient.

Powers granted to Board for levying and collecting rate may be delegated.

18. All or any of the powers hereby granted to the Board as to the making, levying, recovering, and collecting the rate hereby authorised to be made may by resolution of the Board (which may, however, from time to time be varied or rescinded) be delegated by the Board to the Councils of the boroughs and to the Road Boards, Boards of Commissioners of town districts, and Councils of counties included within the said harbour district, or to one or more of them, so far as relates to rateable property situate within the boundaries of such boroughs, road districts, town districts, and counties respectively; and, on receipt of notices in writing of such delegations signed by the Chairman of the Board, the Mayor of each borough, and the Chairman of the said Road Boards, Boards of Commissioners, and Councils of counties, shall forthwith cause all necessary steps to be taken for the performance of the acts in respect of which power may have been delegated as aforesaid.

Remuneration to be paid to body exercising powers delegated to it.

19. For the performance of the acts power to perform which may be delegated as aforesaid there shall be paid by the Harbour Board to the body performing the same remuneration, to include all disbursements and services, at the rate of two pounds ten shillings per centum on the net amount of all moneys collected by such body, and paid to the credit of the Harbour Board at the bank at Timaru at which its account for the time being is kept.

Remedies of debenture-holders in event of default by Board.

20. When and so often as the Board shall fail to pay, at the proper time and place for so paying, either the principal sum secured by the debentures to be issued for any loan hereby authorised, or the coupons for interest payable thereon, then immediately on default being made any person to whom any such sum is owing may apply, *ex parte*, by petition in a summary way to a Judge of the Supreme Court for relief under this Act; and the Judge may, if satisfied of the truth of the matters alleged in such petition, appoint, upon such terms as to security and remuneration as he shall think fit, a Receiver of the rate and contributions hereby authorised to be levied or allocated.

21. From and after the date of such appointment, and upon it being advertised by publication in the *Government Gazette*, and in one or more newspapers circulating in the district, for such time as the Judge shall order, the said rate and contributions shall vest in the Receiver, and shall cease to be vested in the Board; and the said Receiver may exercise all the powers of the Board in respect of such rate and contributions as aforesaid, and in making, allocating, enforcing payment thereof, and otherwise howsoever.

Rate and contribution to vest in Receiver appointed by Judge.

22. All moneys received by the Receiver shall be applied—
- (a.) In payment of the expenses of the application and order;
 - (b.) In payment of the Receiver's remuneration fixed as aforesaid, and his reasonable and necessary expenses;
 - (c.) In payment, *pro rata*, of the sums then overdue by the Board which are secured by the said rate; and
 - (d.) The residue after payment of the above shall be paid to the Board.

Moneys received by the Receiver, how to be applied.

The Receiver shall account for all such moneys in such manner as the Judge directs.

23. The rates authorised to be levied under "The Timaru Harbour Board Loan Act, 1881," "The Timaru Harbour Board Loan Act, 1885," and "The Timaru Harbour Board Loan Act, 1899," and the contributions authorised to be allocated for the payment of interest payable thereunder, may be made and levied and allocated with and included in the rate or contributions authorised to be made and levied or allocated under this Act.

Rates and contributions authorised to be levied and allocated under previous Acts may be included in rates and allocations under this Act.

24. Nothing in "The Local Government Voting Reform Act, 1899," shall be deemed to affect the provisions of this Act.

Provisions of "The Local Government Voting Reform Act, 1899," not to affect this Act.

25. This Act shall be deemed to be a special Act within the meaning of "The Harbours Act, 1878."

This Act to be deemed a special Act within the meaning of "The Harbours Act, 1878."

Schedule.

SCHEDULE.

FORM OF VOTING-PAPER FOR LOANS.

PROPOSAL to raise a loan upon which a poll is to be taken on the _____ day of _____, 1904.

[Insert notice required by section 6.]

1. I vote for the above proposal.
2. I vote against the above proposal.

[NOTE.—If the voter intends to vote in favour of the proposal he must strike out the line marked 2; but if he intends to vote against the proposal he must strike out the line marked 1.]